

Message Text

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ACTION IO-10

INFO OCT-01 AF-06 EUR-12 ISO-00 OFA-01 INT-05 COME-00 L-03

CIAE-00 INR-07 NSAE-00 DLOS-04 TRSE-00 FEA-01 ACDA-05

AGR-05 AID-05 CEA-01 CEQ-01 CG-00 CIEP-01 DODE-00

DOT-00 EB-07 EPA-01 ERDA-05 FMC-01 H-02 JUSE-00

NSC-05 NSF-01 OES-03 OMB-01 PA-01 PM-04 PRS-01 SP-02

SS-15 USIA-06 /123 W

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R 132255Z AUG 75

FM USMISSION USUN NY

TO SECSTATE WASHDC 1346

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY PRETORIA

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E.O. 11652: N/A

TAGS: PFOR, UN, US, SF, WA

SUBJECT: NAMIBIA: FUR SEALS

FOLLOWING IS TEXT OF AUGUST 12 LETTER TO SECRETARY
KISSINGER FROM UN COMMISSIONER FOR NAMIBIA MACBRIDE. ORIGINAL
BEING POUCHED IO/UNP-TEFFT.

QUOTE

IT HAS BEEN BROUGHT TO MY ATTENTION THAT THE FEDERAL
REGISTER OF 7 JULY 1975 CONTAINS A NOTICE THAT THE DIRECTOR OF THE
NATIONAL MARINE FISHERIES SERVICE, ACTING UNDER AUTHORITY DELEGATED
BY THE SECRETARY OF COMMERCE, PROPOSES TO PERMIT THE IMPORTATION
OF CAPE FUR SEAL SKINS (ARCTOCEPHALUS PUSILLUS PUSILLUS) FROM
THE 1975 HARVEST.

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THE NOTICE INDICATES THAT THE PROPOSAL IS BASED ON SECTION 101 (A)(3)(A) OF THE MARINE MAMMAL PROTECTION ACT OF 1972, 16 U.S.C. 1361 ET SEQ., WHICH PERMITS A WAIVER OF THE REQUIREMENTS OF SECTION 101, ESTABLISHING A MORATORIUM ON THE TAKING AND IMPORTATION OF MARINE MAMMALS. IT FURTHER INDICATES THAT SUCH PROPOSED WAIVER IS INTENDED TO COVER CAPE FUR SEAL SKINS TAKEN FROM NAMIBIA - INCORRECTLY REFERRED TO AS SOUTH WEST AFRICA - AND FROM NAMIBIAN TERRITORIAL WATERS; THAT IT IS BASED ON REPRESENTATIONS MADE BY THE REPUBLIC OF SOUTH AFRICA AS TO THE INTENTION OF THAT GOVERNMENT TO MEET UNITED STATES REQUIREMENTS IN RELATION TO SUCH CAPE FUR SEAL SKINS; THAT IT COVERS THE HARVESTING OF SUCH SKINS "UNDER THE AUSPICES" OF THE REPUBLIC; AND THAT, TO BE EFFECTIVE, IT WILL DEPEND ON CERTIFICATION OF VARIOUS MATTERS BY THE SOUTH AFRICAN MINISTER OF FISHERIES. THE NOTICE FURTHER STATES THAT THE SOUTH AFRICAN GOVERNMENT "INTENDS TO SEND OFFICIALS TO THE UNITED STATES TO PARTICIPATE IN ANY PUBLIC HEARING(S) BY TESTIFYING TN ... BEGIN BRACKETS CERTAIN END BRACKETS ISSUES."

UNDER THE 1971 ADVISORY OPINION ON NAMIBIA OF THE INTERNATIONAL COURT OF JUSTICE IT WOULD APPEAR THAT THE DIRECTOR'S PROPOSED WAIVER

AND ALL ACTIONS PRELIMINARY THERETO VIOLATE INTERNATIONAL LAW INSOFAR AS CAPE FUR SEALS HARVESTED IN NAMIBIA OR IN NAMIBIAN TERRITORIAL WATERS ARE CONCERNED. PARAGRAPH 133 (2) OF THAT OPINION, WHICH HAS BEEN APPROVED BY THE UNITED STATES, ADVISES THAT MEMBER STATES OF THE UNITED NATIONS " ARE UNDER OBLIGATION TO RECOGNIZE THE ILLEGALITY OF SOUTH AFRICA'S PRESENCE IN NAMIBIA AND THE INVALIDITY OF ITS ACTS IN BEHALF OF OR CONCERNING NAMIBIA, AND TO REFRAIN FROM ANY ACTS AND IN PARTICULAR ANY DEALINGS WITH THE GOVERNMENT OF SOUTH AFRICA IMPLYING RECOGNITION OF THE LEGALITY OF OR LENDING SUPPORT OR ASSISTANCE TO, SUCH PRESENCE AND ADMINISTRATION..."

IT WOULD GREATLY SURPRISE ME THAT THE UNITED STATES GOVERNMENT WOULD PERMIT ITS OFFICIALS TO TAKE A SERIES OF ACTIONS ALL OF WHICH WOULD DIRECTLY OR BY INEVITABLE IMPLICATION RECOGNIZE THE LEGALITY OF THE SOUTH AFRICAN PRESENCE IN NAMIBIA BY RECOGNIZING SOUTH AFRICAN LIMITED OFFICIAL USE

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REPRESENTATIONS, CERTIFICATIONS, ETC., PURPORTEDLY MADE "ON BEHALF OR CONCERNING NAMIBIA."

I SHOULD ALSO RESPECTFULLY DRAW YOUR ATTENTION TO THE FACT THAT THE INTERNATIONAL COURT WAS MADE AWARE BY THE STATEMENT MADE

ON BEHALF OF THJ#AC|U(Q=Q7DANG58HA!R(W
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+A;FPF-G*JA"FUN8=E*0WW9;?*QBM,0JA"<

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7WN;;XE|

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